

Text of Majority's Proposed Amendments to Rule 1.6

A. With mark-ups shown.

Deletions are shown by ~~strikeouts~~. Additions are shown by underline.

Rule 1.6. Interactive ~~audio and~~ audiovisual devices systems.

a. General Provisions. When the appearance of a defendant or counsel is required in any court, subject to the provisions of this rule, the appearance may be made by the use of an interactive audiovisual device system, including video conferencing equipment. ~~An interactive audiovisual device shall at a minimum operate so as to enable the court and all parties to view and converse with each other simultaneously.~~ Any interactive audiovisual system must meet or exceed minimum operational guidelines adopted by the Administrative Office of the Courts.

b. Requirements. In utilizing an interactive audiovisual ~~device~~ system, all of the following are required:

(1) An interactive audiovisual system shall at a minimum operate so as to enable the court and all parties to view and converse with each other simultaneously.

~~(1)~~ (2) A full record of the proceedings shall be made as provided in applicable statutes and rules.

~~(2) The court shall determine that the defendant knowingly, intelligently and voluntarily agrees to appear at the proceeding by an interactive audiovisual device.~~

(3) Provisions shall be made to allow for confidential communications between the defendant and defendant's counsel ~~prior to and during~~ before, during, and immediately after the proceeding.

(4) Provisions shall be made to allow a victim a means to view and participate in the proceedings.

(5) Provisions shall be made to ensure compliance with all victims' rights laws.

(6) Provisions shall be made to allow the public a means to view the proceedings as provided by law.

(7) Provisions shall be made for use of interpreter services when necessary.

~~**c. Proceedings.** Appearance by interactive audiovisual device, including video conferencing, shall be permitted in the discretion of the court at any proceeding except that:~~

- ~~(1) Written stipulation of the parties is required in all proceedings prior to the commencement of the proceeding, except in initial appearance and not guilty arraignment; and~~
- ~~(2) This Rule 1.6 shall not apply to any trial, evidentiary hearing or probation violation hearing; and~~
- ~~(3) This Rule 1.6 shall not apply to any felony sentencing.~~

c. Proceedings Excluded Absent Extraordinary Circumstances and Parties' Consent. This rule shall not apply to any trial, contested probation violation hearing, felony sentencing, or felony probation disposition hearing, except upon the court's finding extraordinary circumstances and with consent of the parties by written stipulation or upon the record.

d. Proceedings Allowed in Sole Discretion of the Court. Appearance by an interactive audiovisual system may be required in the sole discretion of the court and without the consent of the parties at (1) an initial appearance, (2) an arraignment, (3) a hearing on an uncontested motion, (4) a pretrial or status conference, (5) a change of plea in a misdemeanor case, or (6) an informal conference held pursuant to Rule 32.7.

e. Proceedings Allowed upon Stipulation. Except for those proceedings described in subsection (d), the parties, with the court's approval, may agree by written stipulation or upon the record to allow the defendant's appearance at a proceeding by an interactive audiovisual system. Before accepting the stipulation or agreement, the court shall find that the defendant knowingly, intelligently and voluntarily agrees to appear at the proceeding by an interactive audiovisual system.

B. Without mark-ups.

Rule 1.6. Interactive audiovisual systems.

a. General Provisions. When the appearance of a defendant or counsel is required in any court, subject to the provisions of this rule, the appearance may be made by the use of an interactive audiovisual system. Any interactive audiovisual system must meet or exceed minimum operational guidelines adopted by the Administrative Office of the Courts.

b. Requirements. In utilizing an interactive audiovisual system, all of the following are required:

- (1) An interactive audiovisual system shall at a minimum operate so as to enable the court and all parties to view and converse with each other simultaneously.
- (2) A full record of the proceedings shall be made as provided in applicable statutes and rules.
- (3) Provisions shall be made to allow for confidential communications between the defendant and defendant's counsel before, during, and immediately after the proceeding.
- (4) Provisions shall be made to allow a victim a means to view and participate in the proceedings.
- (5) Provisions shall be made to ensure compliance with all victims' rights laws.
- (6) Provisions shall be made to allow the public a means to view the proceedings as provided by law.
- (7) Provisions shall be made for use of interpreter services when necessary.

c. Proceedings Excluded Absent Extraordinary Circumstances and Parties' Consent. This rule shall not apply to any trial, contested probation violation hearing, felony sentencing, or felony probation disposition hearing, except upon the court's finding extraordinary circumstances and with consent of the parties by written stipulation or upon the record.

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